

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

U.S.A. vs. Michael Brock Faircloth

Docket No. 2:07-CR-14-1D

Petition for Action on Supervised Release

COMES NOW Tuell Waters, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Michael Brock Faircloth, who, upon an earlier plea of guilty to Conspiracy to Distribute and Possess With the Intent to Distribute More Than 5 Grams of Cocaine Base (Crack) and a Quantity of Cocaine in violation of 21 U.S.C. § 846, was sentenced by the Honorable James C. Dever III, U.S. District Judge, on April 22, 2008, to the custody of the Bureau of Prisons for a term of 36 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
3. The defendant shall cooperate in the collection of DNA as directed by the probation officer.

Michael Brock Faircloth was released from custody on July 9, 2010, at which time the term of supervised release commenced.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

Pursuant to a plea agreement, the defendant was ordered at sentencing to make restitution to the Edenton Police Department in the amount of \$1,525.00. The Chief of Police in Edenton, North Carolina, recently provided the undersigned probation officer with a letter confirming that currency in this amount was seized from Faircloth incident to his arrest in March 2005, for Possession With Intent to Sell and Deliver Cocaine. This charge was dismissed in May 2007, in favor of federal prosecution. The arresting officer from the Edenton Police Department reported that he returned the \$1,525.00 to the defendant in exchange for confidential information. However, Faircloth contends

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that he never received the money. Consequently, a criminal investigation into the matter was initiated by the North Carolina State Bureau of Investigation, which remains pending. Subsequently, the Edenton Police Department completed an internal investigation, during which, the arresting officer admitted he falsified a receipt documenting the return of \$1,525.00 to Faircloth. Jay Fortenberry, Chief of Police, Edenton Police Department, recommends that the defendant be relieved of the restitution condition. Furthermore, the government has no objection to this petition.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

The defendant shall not be required to make \$1,525.00 restitution to the Edenton Police Department, as previously ordered in the original judgment dated April 22, 2008.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Dwayne K. Benfield
Dwayne K. Benfield
Senior U.S. Probation Officer

/s/ Tuell Waters
Tuell Waters
U.S. Probation Officer
201 South Evans Street, Room 214
Greenville, NC 27858-1137
Phone: 252-758-7200
Executed On: November 18, 2011

ORDER OF COURT

Considered and ordered this 21 day of November, 2011, and ordered filed and made a part of the records in the above case.

James Dever
James C. Dever III
Chief U.S. District Judge